

MINUTES OF THE SEVENTH MEETING OF THE PUBLIC SAFETY NATIONAL COORDINATION COMMITTEE

Date/Time: Friday, April 7, 2000; Meeting commenced at 1:10 p.m.

Address: Federal Communications Commission
Commission Meeting Room
445 – 12th Street, S.W.
Washington, D.C. 20554

Attendees: See attached list

Kathleen Wallman, National Coordination Committee (“NCC”) Chairperson, convened the seventh meeting of the NCC, welcoming attendees. She then introduced Brian Fontes, Senior Vice President for Policy Administration, Cellular Telecommunications Association, to provide an overview of spectrum-clearing issues.

Remarks of Brian Fontes. Mr. Fontes said band-clearing is not a new wireless industry issue, *e.g.*, the PCS band and relocating incumbent microwave users. He also noted that public safety and the wireless industry have worked cooperatively in such efforts as implementing E911; and that the industry supports public safety acquiring 700 MHz spectrum. He observed that broadcasting is in transition, moving from analog to digital services. He observed that, although broadcasters are entitled to remain on television band channels 60-69 until year 2006, if not later, there are appropriate economic incentives for their leaving these bands earlier. He said the value of a broadcast station is skewed because it is more valuable today than it will be in later years due to the requirement to return the spectrum. Mr. Fontes said various approaches might be taken, based on Spectrum Exchange’s concept (see latter’s presentation below) as follows: (1) put out for bid what it would cost to have the incumbent broadcasters cease operation outright at any particular time between now and year 2006 or as soon as one would want that spectrum; (2) have broadcasters cease over-the-air broadcasting and become a cable channel under the current must-carry rules of the Federal Communications Commission (“FCC”); and (3) attempt to find other available spectrum within which broadcasters could operate, with this third option being related to the first option. He said, given over-the-air broadcast channels operating on channels 60-69 and DTV (*i.e.*, digital television) allocations in these channels, there are a number of ways -- all of which would require time-consuming FCC rule changes -- to clear out channels below channels 59 or 60 to allow broadcasters in both analog and digital modes to relocate, at least on an interim basis. He suggested that in some DTV allocations below channel 60 through 61, broadcasters might time-share their digital allocations with other broadcasters’ digital allocations in channels 59 through 69; but that the same time-sharing concept for analog broadcasting might be more difficult. He said one must contemplate opportunities to work with broadcasters to engage them in a constructive dialogue by focusing on appropriate financial incentives to facilitate their transition either out of the band or to another band that allows them to continue, partial, if not full, analog mode operation and also the chance to continue in must-carry mode under the FCC’s rules if they were band sharing with another broadcaster. Mr. Fontes said that determining the value of incumbent licensees’ spectrum, assessing broadcasters’ willingness to cease operations on channels 60 through 69, and determining the cost to relocate incumbents before the FCC’s June 7th auction date is not optimistically probable due to likely legal challenges resulting from any FCC action on such matters. (Editorial note: the FCC subsequently postponed the auction until September 6, 2000.)

David Eierman asked Mr. Fontes when DTV stations must cease operations on Channels 60 through 69, given that analog stations must cease by 2006, whereas DTV licenses apparently have additional time before having to move. Mr. Fontes responded by saying that broadcasters are trying to move their broadcast channels, both digital and analog, to “core channels”, which comprise channels 2 through 52, and agreed that DTV might be able to remain on Channels 60-69 past 2006, saying there are significant policy and legal DTV issues yet to be addressed independent of relocation. Norm Coltri, RCC Consultants, asked Mr. Fontes if consideration has been given to requiring manufacturers to have, after a certain date, all TV receivers sold in the United States capable of receiving digital. Mr. Fontes responded that, while it is a real issue, nothing has been proffered regarding such a requirement. Robert Schlieman, New York State Police, inquired about broadcasters’ voluntary transition in light of the cost of their existing physical plants and how those plants would be amortized. Mr. Fontes responded, saying that the cost of conversion or replacement of physical plant is included in the projected cost of ceasing operation on a given channel.

There being no further questions for Mr. Fontes, Ms. Wallman introduced Kathleen O’Brien Ham, Deputy Chief, Wireless Telecommunications Bureau (“WTB”), FCC, regarding the next phase for the NCC *vis-à-vis* the NCC’s February 25, 2000, initial recommendations to the FCC (“NCC Report”) and the FCC’s intended actions relative to that report.

Remarks of Kathleen O’Brien Ham. Ms. O’Brien Ham expressed appreciation for the work of the NCC Steering Committee and Ms. Wallman’s leadership in producing the NCC Report. She said D’wana Terry, Chief, Public Safety & Private Wireless Division, WTB, FCC, is reviewing the NCC recommendations, and that a Notice of Proposed Rulemaking (“NPRM”) will be issued shortly addressing the NCC Report. She said the FCC has petitions for reconsideration pending containing some NCC-related issues and that those petitions will be processed in conjunction with the Public Safety Docket (*i.e.*, WTB Docket 98-96), in an effort to consolidate all issues. She believed the FCC will weigh speed of deployment, cost, and spectrum efficiency in evaluating the NCC’s recommendations and pending petition for reconsideration. Ms. O’Brien Ham said: the FCC’s establishing the 700 MHz public safety band committed it to achieve spectrum efficiency by specifying 6.25 kHz channels; nothing has caused the FCC to conclude there are insurmountable technical obstacles preventing accommodating one voice path in a 6.25 kHz channel; and while the FCC understands arguments favoring wider bandwidth channels for the near term, the FCC is convinced it is possible to produce affordable portables, mobiles, and infrastructure to operate within a 6.25 kHz bandwidth. She said the FCC must decide if the marketplace will lead in developing 6.25 kHz equipment or if it will be necessary to encourage use of spectrum-efficient equipment by regulation. She said that the recommended timing for implementing 6.25 kHz technology is currently in the NCC’s hands, and the FCC is looking to the NCC for guidance to ensure that the 6.25 kHz technology will be available and that there will be a graceful transition to it. She said another FCC priority is providing telecommunications capability on Native American tribal lands. She said the FCC hoped the regional planning process includes representatives from the Native American tribes if any tribal land is within regional planning committee (“RPC”) jurisdiction and that Michael Wilhelm, the NCC’s Designated Federal Official (“DFO”), has details regarding the National Congress of American Indians’ directory of tribes in the United States.

Harlin McEwen, International Association of Chiefs of Police, said spectrum availability is not a problem *vis-a-vis* Native American tribal lands but is a problem in New York City, Dallas, Chicago, Los Angeles, etc. Ms. O’Brien Ham said she raised the issue to heighten awareness of what the FCC is looking at. Mr. McEwen said Ms. O’Brien is aware of the public safety community’s: (1) need to obtain spectrum without having to pay for it because there is very little

taxpayer money and (2) need to purchase from manufacturers, affordable equipment for use, *e.g.*, in the 700 MHz public safety spectrum. Ms. O'Brien Ham recognized that public safety is in a different situation than the commercial side regarding ability to pay and encouraged the public safety community to make its views known to FCC Commissioners and on Capitol Hill.

Robert Schlieman said that the NCC report had raised operational concerns about use of 6.25 kHz channels for interoperability and that it discussed interoperability problems related to compatibility with 6.25, 12.5 and 25 kHz equipment in the general use spectrum. He believes that this information is being ignored and that there is a continuing pressure to force the interoperability channels to be 6.25 kHz. Ms. O'Brien Ham responded, saying: when Tom Sugrue, Chief, WTB, addressed the NCC a few months ago, he discussed spectrum efficiency. Not a day goes by, she said, without somebody asking her for spectrum; and the matter is not limited to public safety. She said there is a great opportunity because the NCC is getting in "on the ground level" and Mr. Sugrue does not want a refarming docket years from now dealing with the 700 MHz public safety band. She said the idea is to try ensuring there is some migration path toward those narrower bandwidths in the interoperability channels on a going-forward basis. Mr. Schlieman responded, saying the 6.25 kHz issues belong in the general use spectrum (of the 700 MHz public safety band) and interoperability spectrum demonstrates special issues because interoperability must be a baseline to accommodate all systems that will operate on the interoperability spectrum. He added there are operational issues concerning using equipment other than 12.5 kHz FDMA that are of some significance to public safety. He also commented that there is a dichotomy between an FCC NPRM regarding 4.9 GHz wherein the FCC said no more public safety spectrum is needed whereas the Public Safety Wireless Advisory Committee ("PSWAC") report said that 97.5 MHz of spectrum would be needed by year 2010. Ms. O'Brien Ham responded, saying the matter might have been related to an FCC coordination problem and that she was not immediately familiar with the NPRM to which Mr. Schlieman referred. She said the FCC Chairman's comments on secondary markets, leasing, etc., might encourage acquiring spectrum on the secondary market.

John Powell said Congress establishes spectrum priorities, and that public safety ranks above other uses. He said there is a critical need for spectrum in California. Ms. O'Brien Ham responded, saying that there is an infrastructure bill on Capitol Hill saying utilities, water, and fire are public safety, and the FCC will have to sort out user characteristics qualifying for public safety. Mr. Powell said that there was great concern among members of the NCC about requiring 6.25 kHz operation in the 700 MHz band. He noted that the public safety community had asked the Commission to establish a drop-dead date for conversion to 6.25 kHz operation in the refarming bands, but that the Commission had refused to do so. Mr. Powell stated that 70 percent or more of today's police and fire users are in the VHF high band, and that it would make a tremendous difference to users if the VHF high band channels were reduced to 6.25 kHz. He said a premature move to 6.25 kHz in the 700 MHz band will have a major impact on cost of equipment, and that one of the major manufacturing competitors with a very spectrum-efficient system, TETRA (*i.e.*, terrestrial trunked radio), has said it cannot provide equipment that will operate in a 6.25 kHz bandwidth and also operate in the 25 kHz TDMA mode.

Art McDole, representing APCO, said the NCC recommendation for 12.5 kHz for interoperability was not a hasty decision, was well thought out, and represents the will of virtually all attendees present, with one or two dissenting voices. He said both old and new equipment can meet at the 12.5 kHz bandwidth for interoperability but if the FCC insists on 6.25 kHz for the new band, it automatically eliminates interoperability for perhaps 90 percent or more of the systems that will be in operation for many years. Ali Shahnami, ACD Telecom, said that as the FCC contemplates migration to 6.25 kHz for interoperability, the interoperable channels will be hopefully shared

with the Federal Government, which has as its plan, 12.5 kHz. Dave Buchanan inquired if the NPRM would address releasing the reserve spectrum so that wideband data needs could be met. Ted Dempsey, New York City Police Department, expressed concern about the commercial market driving standards for public safety equipment. He said that commercial products are less expensive, but that commercial users can tolerate a certain degree of interference and unreliability that is not acceptable in public safety communications. The interference criteria applied to public safety operations are considerable more stringent than those applied to commercial equipment. Glen Nash, APCO and the State of California, said commercial providers are unwilling to build systems to provide the level of service that the public safety community demands and, thus, the latter must obtain spectrum to build their own networks duplicating commercial services. Mr. Buchanan expressed concern about the definition of public safety used by the FCC, because PSWAC had exerted considerable effort in coming up with a definition of the term. Ms. O'Brien Ham replied that the definition of public safety was made by Congress and that the public safety community should address their concerns to Congress.

John Powell, discussing the difference between private and commercial systems, noted that a partnership was being formed with the European community and that the State Department was involved in the negotiations. He envisioned that an agreement would be signed by the end of May. He said that a commercial/government alliance should be presented with a statement of requirements meeting public safety needs and that a commercial system should be built from the ground up to provide the critical functions mentioned in the PSWAC report, such as priorities and ubiquitous service. Mr. Powell said the Commission should take these needs into consideration when allocating spectrum.

Glen Nash observed that new commercial service offers products and service that the public safety community would like to have, but that commercial services are profit-driven and are not willing to provide a quality of service that will allow communications from the basement of a building or in rural areas. Ms. O'Brien Ham responded that public safety needs a commercial provider responsive to public safety's needs. She said that with the new band manager concept in the guard bands adjacent to 700 MHz public safety spectrum, band managers might be able to meet public safety's needs. Mr. Nash said that commercial providers are not motivated to meet public safety's needs because public safety users constitute only a small part of the commercial providers' customer base. Therefore, public safety is required to construct its own communications systems. Mr. Buchanan said experience in San Bernardino County, California, showed that cellular service was not available throughout the County and that public safety had to install its own paging system to reach users in areas not serviced by commercial providers.

Ms. O'Brien Ham ended by indicating her availability as well as that of D'wana Terry or Mark Rubin, WTB, if attendees wanted to discuss the foregoing issues at a later time.

Louise Renne. Ms. Wallman gave the floor to Louise Renne, NCC Steering Committee member. Ms. Renne, who is the liaison between the Local and State Advisory Committee ("LSAC") of the FCC and the NCC. Ms. Renne stated that her assignment as LSGAC liaison had ended and that the time had come to rotate the assignment. She expressed her thanks and those of her colleague, Jayne Lee, for the hard work and dedication of the NCC.

NCC Letter Regarding Dataradio Petition for Waiver. Ms. Wallman said she had received a request from Al Catalanto, Counsel for Dataradio, to address the NCC; she then gave the floor to Al Catalano. Mr. Catalano said on April 5, 2000, he received a letter dated March 31, 2000, addressed to the FCC Chairman and signed by the NCC Chair, stating the NCC opposes the Dataradio request pending before the FCC wherein Dataradio seeks a waiver of Section 90.547 of

the FCC's Rules. Mr. Catalano argued that this letter violates the Federal Advisory Committee Act ("FACA"), violates the NCC's rules and procedures, and, thus, he requested that the letter be withdrawn. He said Dataradio filed its waiver petition in December 1999, it was never placed on any NCC agenda or any NCC subcommittee agenda, and FACA and NCC rules clearly require NCC action be taken in an open public forum where there is prior public notice and the opportunity to be heard by interested parties. He maintained this process did not occur because the NCC never addressed Dataradio's petition, Dataradio had no notice that the issue would be considered, the issue was never considered before any public meeting, and the letter was out of order. Ms. Wallman said she would take Mr. Catalano's arguments and views under advisement, she would consult with the DFO, and the NCC would respond to Mr. Catalano. Mr. Catalano asked Ms. Wallman and the DFO if the letter constituted a formal action of the NCC. Ms. Wallman repeated her statement that she would take Mr. Catalano's views and arguments under advisement and said it was inappropriate to address the matter during the meeting.

Clarification of Meeting Minutes. Ms. Wallman said that Doug Aiken, Steering Committee member, wanted to clarify a matter in the January 28th NCC minutes of the San Francisco meeting, *i.e.*, the portion saying Mr. Aiken took issue with, "Virtually all the subcommittee recommendations." Ms. Wallman said the minutes were compared to the taped transcript, and the transcript recited her comments as follows: "We did receive today, this morning by Federal Express, a memorandum from Doug Aiken containing comments that took issue, I think is fair to say, essentially with all of the major recommendations that came forward." She said Mr. Aiken did not take issue with virtually all the recommendations but, rather, took issue with the major recommendations, *i.e.*, trunking, the digital standard, and the narrow band data modulation standard. She then instructed the taker of the minutes to ensure that the minutes of today's meeting indicate Ms. Wallman's more considered reflection of Mr. Aiken's memorandum.

Ms. Wallman then introduced Larry Ausbel, Professor of Economics, University of Maryland, and Co-President of Spectrum Exchange.

Presentation by Mr. Ausbel. Mr. Ausbel said Spectrum Exchange is a private company formed by economics professors and game theory professors involved in developing the original FCC spectrum auction. He gave background regarding the FCC's scheduled June 7th auction (editorial note: auction postponed until September 6) of the to-be auctioned 30 MHz of spectrum in the 700 MHz band, saying that this spectrum is greatly encumbered with existing UHF broadcasters, resulting in blocking use by new licensees. He said that the channels overlap with channels 60-69; and existing channels have both co-channel and adjacent channel protection, *i.e.*, in order to protect UHF channel 62, adjacent channels 61 and 63 cannot be used. He mentioned three sets of licenses as follows: (1) the commercial C license, blocked by channels 59, 60, 61, and 64, 65, 66; (2) the commercial D license, encumbered by channels 60 to 63 and 65 to 68; and (3) the public safety bands, encumbered by channels 62 to 65 and 67 to 69. He, thus, indicated that both the public safety and commercial services require that broadcast operations of UHF channels be cleared much sooner than the end of transition to DTV because the end of the transition period is currently year-end 2006. He said, consequently, Spectrum Exchange will conduct a private auction to enable bidders in the 700 MHz auction to bid for clearing the spectrum. The firm proposes to introduce one or more comparable channels for existing stations to relocate to lower channels if necessary and then conduct an auction to see who would want to transition to DTV early and stop using the Channel 60-69 channels. He said this would shift competition from holding out for the value of the spectrum and would simply demand the cost of clearing, with a result similar to FCC auctions, *i.e.*, an auction resulting in economic efficiency. As an example, he gave the Chicago market (with various details). Mr. Ausbel said Spectrum Exchange would need to enter into contracts with the bidders in the FCC auction and the incumbent broadcasters

currently using the spectrum; the bidders would pay for clearing at the price determined by Spectrum Exchange's auction; the cost sharing would be 2/3 by the winner of the large license and 1/3 by the winner of the small commercial license – with public safety being the third big beneficiary of clearing because it obtains the bandwidth just as clear as the commercial services could receive its bandwidth. He stated that the FCC could facilitate clearing of the spectrum by: (1) amplifying on its previous statements regarding early transition of these UHF broadcasters to DTV only; (2) assuring that transitioning broadcasters continue to have rights to cable carriage; (3) establishing relocation to lower channel rules. He then gave some details on each of these three points.

Harlin McEwen asked Mr. Ausbel about his firm's legal authority to conduct a private auction. Mr. Ausbel responded that while the FCC would like to conduct the auction in tandem with the 700 MHz auction, the FCC doesn't have legal authority to conduct a private auction. However Spectrum Exchange does not need FCC authorization to conduct a private auction. Stu Overby, Motorola, inquired regarding reaction from broadcasters. Mr. Ausbel responded that there are two reactions: (1) broadcasting associations, *i.e.*, NAB and ALTV, are negative; and (2) investment bankers have indicated that some of the major owners of channel 59 to 69 stations are intrigued and view the matter as a possible opportunity for them. In response to a question from Mr. Schlieman, Mr. Ausbel indicated that slides used in his presentation could be downloaded electronically from CTIA and that he also could provide a diskette or hard copy.

At the conclusion of Mr. Ausbel's presentation, Ms. Wallman requested subcommittee reports.

Technology Subcommittee Report. Glen Nash, Chairperson, said the previous day's meeting related primarily to milestones and an action plan for the coming year, and establishing goals and objectives for the Subcommittee's working groups. Working Group 1's assignments are to: (a) work with TIA's TR 8.5 Committee to begin the work needed to define the wideband channel standards, *i.e.*, develop a more complete list of what the public safety community is looking for in using wideband channels *vis-à-vis* interoperability and, perhaps, general use channels; (b) evaluate operational trade-offs, *i.e.*, data rate or amount of information transmitted versus communications range and speed of motion; and (c) evaluate appropriate bandwidths to support those data rates. Mr. Nash said while the Narrowband Working Group recommended in San Francisco an encryption standard, *i.e.*, the FIPS 46-3 document, for defining voice and data standards, it would reconsider and recommend defining a more complete encryption standard and additional documents in light of subsequent statements from various Federal representatives saying the single FIPS 46-3 reference is not adequate. He said the Subcommittee would look at technology issues, *i.e.*, amplifier linearization, battery capacity improvements, needed frequency stability enhancements, which are related to moving to a 6.25 kHz bandwidth standard, and would look at a recent FCC Notice of Inquiry relating to software defined radios ("SDR") to develop information for possible NCC filing of comments on the NOI. Mr. Nash said Working Group 3 deals with spectrum issues. He said that the current FCC plan does not allow aggregation of four interoperability channels to form a 25 kHz channel; that the 25 kHz channel issue is treated in petitions for reconsideration pending before the FCC and that the Working Group will review the matter for a recommendation in June. Working Group 4, dealing with receiver standards, will be reviewing a TIA receiver standard. Working Group 6, which drafts reports, will begin the draft of the final report, hopefully by the end of the year. He said that with NCC Steering Committee approval, he, as Subcommittee Chairperson, would draft a letter to TIA requesting advice on frequency stability for transmitters and receivers in relation to various bandwidths, and encouraged manufacturers in attendance to suggest technology for use in wideband data channels. Mr. Nash expected the working groups to complete written reports by May 24 for decisions at the June 1st Subcommittee meeting; he expected during the

September/October that wideband channel standards would be reviewed by the Subcommittee, which hopefully would receive a report on receiver standards to make recommendations on frequency stability standards by October/November, when all matters would be presented to the NCC Steering Committee and general membership. There were no questions for Mr. Nash.

Interoperability Subcommittee Report. Robert Schlieman read highlights of Subcommittee meeting minutes earlier given to him by John Powell, Chairperson, as follows: Working Group 2, Operational Requirements: Rick Murphy reported on behalf of Working Group Chairperson Kyle Sinclair that a review of the national incident management system (a superset of the ICS) will be circulated shortly for review and comment, and the Department of Justice is supporting it. Working Group 3, Rules, Policy, and Spectrum Planning Chairperson Carlton Wells reported on revisions to IO 0023C made at the request of the FCC to offer clarifications and better wording in paragraph 4; Working Group 4, Liaison with Outside Groups Chairperson Don Pfohl reported on an ongoing effort to identify the status of the regional planning committee conveners for the 700 MHz band; Working Group 6, High Speed Data User Needs Statement of Requirements, Chairperson Daivid Buchanan reviewed action on development of the SDR. There was considerable discussion on wideband issues. Steve Beeferman referenced a SDR presentation by the FCC Technology Advisory Committee; Dave Buchanan reported that the Southern California RPC is seeking the highest speed available, while Glen Nash noted that while such is desirable, there are trade-offs affecting range and speed of improvement. Paul May suggested prioritization of need is very important to TIA's deliberations. Ernie Hoffmeister, ComNet Ericsson and Steering Committee member, asked for the geometry of the problem to define what is needed, including distances and Rick Murphy agreed such requirements must be defined. Glen Nash reminded the Subcommittee that the primary mission is meeting interoperability needs. Robert Schlieman sought clarification of the FCC rule requiring that transmitters have capability to operate using the NCC-designated standard on the interoperability channels and the development of data applications. Michael Wilhelm interpreted the rule to apply to the requirement for a standard method of transmitting data from the data input port of the transmitter to the data output port of the receiver of the "air interface." He noted the NCC might want to recommend to the FCC the need for further regulation to accommodate interoperability applications being supported by the air interface. The Subcommittee also reviewed the work plan for the remainder of the year, and a report will be prepared and distributed before the June meeting. John Powell noted a request from FCC staff for definitions of certain terms from document IO 0018F19991118 and noted that "mutual aid" and "task force" are defined in the PSWAC Final Report, which will be provided to the FCC. Don Burns, National Incident Management Association, noted that FEMA has a definition of "disaster", and he'll provide it.

Implementation Subcommittee Report. Lt. Edward Dempsey, Chairperson, said the main focus of discussions earlier that morning was that regional plans must be flexible in terms of functioning effectively but firm in terms of operation boundaries. He said draft bylaws and a draft resolution process was introduced for comment, with positive feedback being given; and a draft national plan guidelines document is being formulated. Lt. Dempsey said that of particular interest was discussion of pre-planning versus first-come-first served *vis-à-vis* RPCs. He said his Subcommittee believes the 700 MHz process must be more flexible than the NPSAC process but with well-defined, clear, precise guidelines to the RPCs. He said funding is a major issue, with three major areas for possible funding benefits: RPCs for their yearly activities, the national plan process for the oversight process, and interoperability spectrum users and user systems. He said there was consensus that the RPCs must establish leadership continuity. He believed the Subcommittee has sufficient information to begin finalizing its report, and the writing group has been meeting to discuss report format, with an outline distributed earlier that morning. He said

the NIJ (*i.e.*, National Institute of Justice) precoordination database also was discussed *vis-à-vis* the regional planning process and the national plan. There were no questions for Lt. Dempsey.

Public Discussion. Ms. Wallman returned to the matter raised earlier by Mr. Catalano. She said Mr. Catalano was correct in saying the NCC letter erroneously implied that the position expressed in the March 31st letter was the result of a formal NCC action. Ms. Wallman said it was not; rather, she said, the letter merely intended to convey the weight of opinion among the Steering Committee members that the waiver should not be granted. She said she would be filing a letter with the FCC to this effect. Mr. Catalano then disagreed with Ms. Wallman's assertion, saying that Dataradio has substantial support within the NCC, including Steering Committee members, and, thus, there is no Steering Committee consensus [for taking a position against Dataradio's waiver request]. Ms. Wallman said the weight of the Steering Committee opinion, while not unanimous, is that the waiver request should not be granted. She asked for any comment from the Steering Committee and none was forthcoming. An exchange between Mr. Catalano and Ms. Wallman then ensued concerning the nature of the March 31st letter, what was and was not deemed to be formal action by the Steering Committee relative to the letter, whether or not the follow-up letter Ms. Wallman will write to the FCC would be a formal action of the NCC, whether or not the matter leading to the contents of the March 31st letter were required to be taken up in a public forum, and the authority by which the March 31st letter was written. Mr. Catalano believed that an official opinion from the FCC's Office of General Counsel ("OGC") should be sought and strongly disagreed with the NCC's interpretation of its own procedures and of the FACA.

Harlin McEwen, said that as a Steering Committee member, he had no problem regarding consulting with OGC but said Mr. Catalano, on the one hand, could not ask the Steering Committee to withdraw or instruct Ms. Wallman to withdraw the letter and then, on the other hand, say the Steering Committee does not have legal authority to act because it did not have legal authority *ab initio*. Mr. Catalano argued that the letter was *ultra vires*, there was no NCC authority to act, and the letter should be withdrawn. Ms. Wallman reiterated that she would take Mr. Catalano's position under advisement. Mr. Catalano said that any company represented on the Steering Committee has the right to submit comments individually. Robert Schlieman suggested that if a legal opinion requires the letter to be withdrawn, each Steering Committee member should submit a letter directly because the issue was discussed in San Francisco by Mr. Beeferman, Dataradio, and that the requested waiver is contrary to the NCC recommendation to the FCC. Steve Beeferman said he discussed the petition with several committee members in December before the petition was filed to apprise and generate interest in discussing what Dataradio had to offer, and the invitation was rejected, with no interest being shown. Mr. Catalano again contended that the record should reflect Dataradio's being denied the opportunity to make a formal presentation.

Future Meeting Dates. Ms. Wallman noted that the next set of NCC meetings (already scheduled) are June 1 and 2, 2000 (*i.e.*, in Washington, at FCC Headquarters). After general discussion, it was decided by consensus that there would be NCC meetings September 14 and 15, 2000, in Washington, D.C. (editorial note: meeting location to be determined).

Ms. Wallman determined there was no further business and thanked the attendees.

(Whereupon the meeting was adjourned at 3:50 p.m., Friday, April 7, 2000.)

Prepared by: Bert Weintraub
Attorney Advisor
Public Safety & Private Wireless Division
Federal Communications Commission

Certified as to accuracy:

Kathleen Wallman

Date: _____

NCC ATTENDANCE ROSTER FOR April 07, 2000

<i>Last Name</i>	<i>First Name</i>	<i>Meeting Date</i>
Adler	Steve	April 07, 2000
Aiken	Douglas	April 07, 2000
Beeferman	Steven	April 07, 2000
Blair	Sgt. Bruce	April 07, 2000
Byrnes CEM	Joseph	April 07, 2000
Cannon	Glenn M.	April 07, 2000
Catalano	Al	April 07, 2000
Coltri	Norman	April 07, 2000
DeMello	Richard	April 07, 2000
Dempsey	Edward	April 07, 2000
Descoteaux	Celeste	April 07, 2000
Eierman	David	April 07, 2000
Einreinhofer	Paul	April 07, 2000
Fitzsimon	Leo	April 07, 2000
Gastler	Charles	April 07, 2000
Gillory	Ronald	April 07, 2000
Griffin	Fred	April 07, 2000
Haraseth	Ron	April 07, 2000
Hoffman	Charles	April 07, 2000

Wednesday, May 17, 2000

Page 1 of 3

<i>Last Name</i>	<i>First Name</i>	<i>Meeting Date</i>
Hofmeister Dr.	Ernest	April 07, 2000
Kain, PE	Carl	April 07, 2000
Lee	Jayne	April 07, 2000
Loewenstein	Timothy	April 07, 2000
Mackoul	Scott A.	April 07, 2000
May	Paul	April 07, 2000
Mayworm	Ronald	April 07, 2000
McDole	Art	April 07, 2000
Miller	Larry	April 07, 2000
Mueller	Steven	April 07, 2000
Nash	Glen	April 07, 2000
O'Hara	Ellen	April 07, 2000
Oblak	John	April 07, 2000
Orsulak	Rich	April 07, 2000
Overby	Stu	April 07, 2000
Pfohl	Don	April 07, 2000
Pickeral, J.D.	David	April 07, 2000
Poltronieri	Jeanine	April 07, 2000
Powell	John	April 07, 2000

Wednesday, May 17, 2000

Page 2 of 3

<i>Last Name</i>	<i>First Name</i>	<i>Meeting Date</i>
Renne	Louise	April 07, 2000
Rinehart	Bette	April 07, 2000
Schlieman	Robert	April 07, 2000
Shahnami	Alireza (Ali)	April 07, 2000
Smith	Brenna	April 07, 2000
Smith	McRae	April 07, 2000
Speidel Esq.	Robert	April 07, 2000
Tolman	Tom	April 07, 2000
Vaughan	Don	April 07, 2000
Vogel	Emil	April 07, 2000
Wallman	Kathleen	April 07, 2000
Wells	Carlton	April 07, 2000
Williams	David	April 07, 2000

Total for Attendance Roster: 51